

Senate File 190 - Introduced

SENATE FILE 190

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A BILL FOR

- 1 An Act relating to frivolous actions and attorney fees.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 610A.1, subsection 1, paragraph e, Code
2 2015, is amended to read as follows:

3 e. If the inmate has unsuccessfully prosecuted three or more
4 frivolous actions in the preceding five-year period, or if the
5 court deems the current action to be frivolous, the court may
6 stay the proceeding in accordance with section 617.16.

7 Sec. 2. Section 617.16, Code 2015, is amended to read as
8 follows:

9 **617.16 Frivolous actions.**

10 1. If a party commencing an action has in the preceding
11 five-year period unsuccessfully prosecuted three or more
12 actions, and the court may, if it deems the actions to have
13 been frivolous, or if the court deems the current action to be
14 frivolous, the court may stay the proceedings until that the
15 party furnishes who commenced the action has complied with the
16 court's order to do either of the following:

17 a. Furnish an undertaking secured by cash or approved
18 sureties to pay all costs resulting to opposing parties to the
19 action including a reasonable attorney fee.

20 b. Provide an amount representing a reasonable attorney fee
21 to the court, which the court shall dispense to the opposing
22 parties to defend the action.

23 2. If the party who commenced the action prevails, and had
24 paid attorney fees under section 1, subsection "b", the court
25 shall order the parties who received such attorney fees to
26 repay the party who commenced the action in the same amount, in
27 addition to any other recovery ordered by the court.

28 **EXPLANATION**

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to frivolous actions and attorney fees.

32 Under current law, if a party who commences an action
33 has unsuccessfully prosecuted three or more actions in the
34 preceding five-year period and the court deems those actions
35 to be frivolous, the court may stay the proceeding until the

1 party commencing the action has furnished security in cash or
2 sureties to pay all costs resulting to opposing parties to the
3 action, including a reasonable attorney fee.

4 The bill amends current law to also allow a court to stay
5 a proceeding if the court deems the current action to be
6 frivolous.

7 The bill provides that if the court has deemed the previously
8 filed actions or the current action to be frivolous, in
9 addition to the current option to require the party commencing
10 the action to furnish security to pay all costs resulting to
11 opposing parties to the action, including a reasonable attorney
12 fee, the court may require the party commencing the action to
13 pay an amount representing a reasonable attorney fee for the
14 opposing parties to use to defend the action. If the court
15 orders the party who commenced the action to pay an amount
16 representing a reasonable attorney fee to the opposing parties
17 to use to defend the action and the party who commenced the
18 action ultimately prevails in the action, then the opposing
19 parties shall repay the amount representing the attorney fee,
20 in addition to any other recovery to which such party is
21 entitled.

22 The bill makes conforming changes.